

Recommendations by GST Council in 31st Meeting held on 22.12.2018

GST Council in its 31st meeting held in New Delhi on 22.12.2018 came up with proposal of various key changes. GST Council has focused on rationalisation of GST rates and amendment to important provisions including input tax credit, e-way bill and annual return in Form 9 and 9A. Below is the gist of changes other than GST rates and exemptions on the basis of press releases issued post 31st GST Council Meeting. We shall revisit the amendments once notifications/circular/s in this regard are issued.

KEY HIGHLIGHTS

- ⊙ **Due date of GST Annual Return and Reconciliation Statement for the period from July, 2017 to March, 2018 extended to 30th June, 2019**
- ⊙ **Last date to avail ITC from July, 2017 to March, 2018 extended upto 20th April, 2019 subject to specified conditions**
- ⊙ **Restriction on generating e-way bill if returns are not filed for two consecutive tax periods**
- ⊙ **Amendments to GST Laws (made through Amendment Act, 2018) to be effective from 1st February, 2019**
- ⊙ **New simplified return to be mandatorily filed from 1st July, 2019**
- ⊙ **Complete waiver of late filing fees with respect to GSTR-1, GSTR-3B and GSTR-4 for the period from July, 2017 to March, 2018 furnished after 22nd December, 2018 but on or before 31st March, 2019**
- ⊙ **Important amendments proposed to GST Annual Return and Reconciliation Statement**

🕒 Extension of due date/s of GST return/statement/s:

Return/Statement	Type of return/statement	Period	Extended Due Date
GSTR 9	Annual Return for all tax payers other than composition dealer	FY 2017-18 ¹	30.06.2019
GSTR 9A	Annual Return for Composition dealer	FY 2017-18 ¹	30.06.2019
GSTR 9C	Reconciliation statement	FY 2017-18 ¹	30.06.2019
GSTR 8	Monthly return for TCS by E-commerce operator	October, 2018 to December, 2018	31.01.2019
GST ITC 04	Details of goods sent to job worker or received back	July, 2017 to December, 2018	31.03.2019

🕒 Extension in availment of ITC for the period from July, 2017 to March, 2018

As per the present ITC provisions, ITC could be availed till the due date of furnishing return for the month of September of next FY or furnishing of annual return, whichever is earlier². Consequently, for the period from July, 2017 to March, 2018, the last date for availing ITC was 20th October, 2018 (Due date of furnishing annual return since annual return was notified on 4th September, 2018 which was not filed by anyone owing to absence of such form on GSTN portal).

¹ Though GST Law is implemented from 1st July, 2017, format of annual return and reconciliation statement requires an assessee to provide turnover of FY 2017-2018 and then remove turnover pertaining to April, 2017 to June, 2017

² Section 16 (4) of CGST Act, 2017

Now, GST Council has recommended to extend the last date for availing ITC for invoices issued by supplier from July, 2017 to March, 2018 as 20th April, 2019 (The due date of furnishing GSTR-3B for March, 2019) subject to specified conditions.

GSC Comments:

Being first year of implement of GST, this is a welcome proposition. However, such extension would be provided subject to specified conditions. Therefore, it would be worthwhile to examine notification once issued in this regard to analyse each individual case.

🕒 **Restriction on generating E-way bills on non-filing of return**

It is recommended that e-way bill shall not be allowed to be generated by defaulting assessee who have not filed GST returns for two consecutive tax periods. This will be effective as soon as requisite functionality is made available by GSTN/NIC.

GSC Comments:

This would be crucial for every assessee who is covered within the ambit of e-way bill provisions. Therefore, all assessee should try to gear up and regularise their GST return/s before implementation of this amendment.

🕒 **Amendment Acts would be effective from 1st February, 2019**

Crucial amendments were made to GST provisions vide CGST (Amendment) Act, 2018, IGST (Amendment) Act, 2018, UTGST (Amendment) Act, 2018, GST (Compensation to States) Amendment Act, 2018. Though these Amendment Acts have received Presidential assent on 29th August, 2018, the amendments are not yet notified.

All these amendments made through Amendment Acts and corresponding changes in SGST Acts would be notified with effect from 1st February, 2019.

☺ **New return filing system to be introduced mandatorily from 1st July, 2019:**

Earlier it was decided to introduce simplified GST returns from 1st April, 2019. Draft format of new GST returns was also put in public domain by CBIC. However, now, it is decided to introduce such new return filing system on trial basis from 1st April, 2019 which shall become mandatory only from 1st July, 2019.

☺ **Waiver of late filing fees for the period from July, 2017 to March, 2018 in cases where GSTR-1, GSTR-3B and GSTR-4 are furnished after 22nd December, 2018 till 31st March, 2019:**

Late filing fees shall be completely waived for all assesseees with respect to GSTR-1, GSTR-3B and GSTR-4 pertaining to the period from July, 2017 to September, 2018 furnished after 22nd December, 2018 till 31st March, 2019.

GSC Comments:

The present amendment is proposing to provide relief to assesseees who have not filed returns till date from the date of implementation of GST. This amendment proves the statement that *'sometimes wrong step also lead you to right pathway'*. Though this is a welcome change, concerns are raised about the assesseees who have filed belated returns for the said period but have paid late filing fees till 22nd December, 2018.

- 🕒 **Various amendments with respect to GST annual return:**
- GSTR-9 (Annual return) and GSTR-9C (reconciliation statement) would be allowed to be filed only after filing all returns in GSTR-1 and GSTR-3B
 - Assessee who have opted for composition scheme can file GSTR-9A (annual return) only after filing all returns in GSTR-4
 - GSTR-9 and GSTR-9C cannot be used to avail ITC
 - Additional payment, if any, shall be paid only in cash through GSTR DRC-03
 - Some changes in Form GSTR-9 and GSTR-9C:
 - Amendment to the headings in order to specify that GSTR-9 and GSTR-9C would be in respect of supplies etc. 'made during the year' and not 'as declared in returns filed during the year'
 - GSTR-9 will auto-populate all invoices pertaining to previous FY under Table-8A (irrespective of the month in which such invoice is reported in GSTR-1 by supplier)
 - GSTR-9 would now include a verification by tax payer who will be uploading reconciliation statement
 - HSN code may be declared only for inward supplies whose value independently accounts for 10% or more of total value of inward supplies
 - Value of 'non-GST supply' shall also include the value of 'no supply' and may be reported in Table 5D,5E and 5F of GSTR-9

GSC Comments:

Above amendments would impact trade and industry at large. This press release has

provided reasonable clarity on the modalities for rectification of mistakes of FY 2017-2018 so that preparation of annual return and reconciliation statement can be initiated by assesseees. However, one should wait to analyse the notification/s issued in this regard for further clarity.

🕒 **Procedural changes in GST refund claims**

- **No requirement of physical submission of RFD-01A** – All supporting documents / invoices in relation to refund application in GST RFD-01A shall be uploaded electronically on GST portal at the time of filing refund claim.
- **New functionality shall be available in RFD-01A for below mentioned types of refund claims:**
 - Refund on account of Assessment/Provisional Assessment/Appeal/Any Other Order
 - Tax paid on an intra-State supply which is subsequently held to be inter-State supply and *vice versa*
 - Excess payment of Tax
 - Any other refund

For transitional phase where ARN for GST refund application (except refund of excess balance in cash ledger) is generated for the abovementioned refund types before the rollout of online functionality but the same is not submitted with the jurisdictional tax office within 60 days from generation of ARN, E-mail shall be sent on registered Email ID on where to submit refund applications. Thereafter, if application is not submitted within 15 days from the date of E-mail, such refund applications shall be summarily rejected and the debited amount, if any, shall be re-credited to electronic credit ledger.

- **Clarifications will be issued on the following refund related matters:**
 - Refund on inverted tax structure
 - Disbursal of refunds within stipulated time
 - Time allowed for availment of ITC on invoices
 - Refund of accumulated ITC of compensation cess
- **Single Authority** for disbursement of the refund sanctioned either by Centre or State tax authorities would be implemented on pilot basis.

🕒 **Introduction of single cash ledger for each tax head:**

Single cash ledger for each tax head would be introduced after consultation with GSTN and Accounting authorities.

🕒 **One more chance for completion of migration process:**

Taxpayers, who had received provisional ID till 31st December, 2017 but who had not yet completed migration process, shall furnish complete GST REG-26 and requisite details to the jurisdictional nodal officer till 31st January, 2019. For such taxpayers, the due date for furnishing GSTR-1 and GSTR-3B from July, 2017 to December, 2018 shall be extended till 31st March, 2019.

🕒 **In-principle approval by GST Council for following amendments in GST Law:**

- **Interest on delayed payment only on net tax liability:**

Amendment shall be made to Section 50 of CGST Act to provide for interest only on net tax liability i.e. on the amount payable after admissible ITC

○ Centralised Appellate Authority for Advance Ruling:

In-principle approval is provided by GST Council to introduce provisions for centralised Appellate Authority for Advance Ruling (AAAR) to deal with conflicting decisions by two or more State Appellate Advance Ruling Authorities on the same issue. This would require amendment in GST Laws.

🕒 Reference made to various committees/GoM for certain critical issues:

Issues/ Decisions	Referred to Committee
Taxation of residential property in real estate sector	Law Committee and Fitment Committee
Threshold limit of exemption under GST regime	GoM and MSMEs
tax rate and threshold limit for introducing composition scheme for small service providers	Law Committee and Fitment Committee
Tax rate on lotteries	Committee of States

GST Council would take a view on the above crucial issues in their next Meeting.

Abbreviations used:

GST	: Goods and Services tax
CGST Act	: Central Goods and Services tax Act, 2017
IGST Act	: Integrated Goods and Services tax Act, 2017
SGST Act	: State Goods and Services tax Act, 2017
CGST	: Central Goods and Services tax
ITC	: Input Tax Credit
HSN	: Harmonized System of Nomenclature
CBIC	: Central Board of Indirect Taxes and Customs
GSTN	: Goods and Services Tax Network
FY	: Financial Year

Disclaimer

This document is not a written opinion and is published on 24th December, 2018. This document is meant for internal circulation for introduction/basic understanding purposes only. A detailed consultation with us is required before taking any tax/business decision based on this document. GSC, its employees or directors are in no way responsible for any loss arising due to reliance placed on this document.



How GSC can be of your assistance?



Knowledge
partner

Implementation
partner

Compliance
partner

Assurance
partner



West Region

6th Level, HDIL Kaledonia-A,
Sahar Road, Andheri (E),
Mumbai – 400 069.

North Region

A-36, First Floor, Ring Road,
Rajouri Garden, New Delhi – 110 027.

East Region

406A - 406B, 4th Floor,
Todi Chamber, 2, Lal Bazar Street,
Kolkata - 700 001.

South Region

64, Thirumalai Pillai Road,
T. Nagar, Chennai – 600 017.



www.gscintime.com



+91 22 4612 5600

+91 98210 12151



jayeshgogri@gscintime.com

info@gscintime.com